

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

BEN MABILE ET AL

CASE NO. 2:22-CV-02394

VERSUS

JUDGE JAMES D. CAIN, JR.

ALLIED TRUST INSURANCE CO

MAGISTRATE JUDGE KAY

MEMORANDUM ORDER

Before the Court is “Defendant’s, Allied Trust Insurance Company, Motion to Stay Litigation and Case Management Order Pending Appeal” (Doc. 31). Allied seeks to stay this litigation pending its appeal of the Court’s ruling denying appraisal because the demand for appraisal, made two (2) years after the date of loss was untimely. The Court further notes that the policy provides that the appraisal would be nonbinding. The Court has reviewed and considered the arguments of Allied but finds that a stay is not warranted.

In *Belcher v. Birmingham Trust Nat. Bank*, 395 F.2d 685 (5th Cir. 1968), the Fifth Circuit explained a four-factor test to consider when determining if a stay is warranted pending an appeal: (1) the likelihood of success on appeal, (2) whether irreparable harm will occur to movant if the stay is not granted, (3) whether a stay would substantially harm other parties to the litigation, and (4) if the appeal affects public interest.

First, Allied has failed to persuade this Court that it will succeed on appeal. In addition, the Court does not agree with Allied’s arguments that it will be irreparably harmed if it has to continue to proceed through the Case Management Order (“CMO”) since this matter is now operating outside of the CMO. The case is set for trial on March

25, 2023.¹ And again, as noted by Plaintiff, even if the parties participated in the appraisal process, the policy terms dictate that the appraisal would be non-binding. Allied has not presented any harm to other parties, and finally, the Court does not find that granting a stay would support public interests. Indeed, a stay would only affect the Plaintiff herein who continues to allege an unpaid coverage loss that is now three years post-storm.

Accordingly,

IT IS ORDERED that the Motion to Stay Litigation and Case Management Order Pending Appeal is **DENIED**.

THUS DONE AND SIGNED in Chambers on this 5th day of September, 2023.



JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE

¹ Doc. 30.